

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TERAK L. BACKUES, )  
Plaintiff, )  
vs. ) Case No. 4:16CV00157ACL(ACL)  
CAROLYN W. COLVIN, )  
Acting Commissioner of Social Security )  
Defendant. )

**MEMORANDUM AND ORDER**

This is an action under 42 U.S.C. § 405(g) for judicial review of Defendant's final decision denying Plaintiff's application for benefits under the Social Security Act. Currently pending is Defendant's Motion to Reverse and Remand. (Doc. 22.) Plaintiff has not filed a Response.

In her motion, Defendant requests that the Court reverse the decision of the administrative law judge (“ALJ”), and remand this action to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). Defendant states that, after careful review of the record and Plaintiff’s arguments, Defendant has determined that the case should be remanded for further consideration by the Social Security Administration. Defendant states that remand is needed to provide the ALJ an opportunity to further evaluate Plaintiff’s claim based on the evidence of record as a whole, including the medical opinion evidence. On remand, the ALJ will further evaluate the opinion of Plaintiff’s treating podiatrist, Jody P. McAleer, D.P.M., consistent with 20 C.F.R. §404.1513.

Sentence four of 42 U.S.C. § 405(g) states that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” In order for the Court to properly remand a case to the Commissioner pursuant to

sentence four, the Court must enter an order either affirming, modifying, or reversing the Commissioner's decision. *See Brown v. Barnhart*, 282 F.3d 580, 581 (8th Cir. 2002).

The undersigned believes that it is appropriate to reverse and remand this case in order to permit the Commissioner to take further action as requested in her motion.

Accordingly,

**IT IS HEREBY ORDERED** that Defendant's Motion to Reverse and Remand (Doc. 22) is **GRANTED**.

**IT IS FURTHER ORDERED** that the decision of the Commissioner be **reversed** and this cause be **remanded** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) for those reasons set forth in this Memorandum and Order. A separate written Judgment will be entered in favor of the Plaintiff and against the Defendant.

  
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ABBIE CRITES-LEONI  
UNITED STATES MAGISTRATE JUDGE

Dated this 8<sup>th</sup> day of August, 2016.